

question of mailability, and the scheduled hearing date may be postponed by the presiding officer for such period of time as may be necessary to accommodate settlement discussions between the parties.

#### **§ 953.7 Default; Appearances.**

If a timely reply to the appeal is not filed, the presiding officer shall refer the appeal to the Judicial Officer, who may find that the General Counsel or the Chief Postal Inspector or his or her designee is in default. Whenever the General Counsel or the Chief Postal Inspector or his or her designee has been deemed to be in default, the Judicial Officer shall take whatever action on the appeal he deems appropriate. If an oral evidentiary hearing is to be held, the appellant may appear at the hearing in person or by counsel. If either party fails to appear at the hearing, the presiding officer shall receive the evidence of the party appearing and render a decision.

[59 FR 31538, June 20, 1994, as amended at 71 FR 53972, Sept. 13, 2006]

#### **§ 953.8 Location of hearing.**

Unless otherwise ordered by the presiding officer, the hearing shall be held at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, on the date set in the notice.

[63 FR 66050, Dec. 1, 1998]

#### **§ 953.9 Change of place of hearing.**

(a) Not later than the date fixed for the filing of the reply, a party may file a motion that the scheduled hearing be held at a place other than that designated in the notice. The motion shall include a supporting statement outlining:

- (1) The evidence to be offered in such place;
- (2) The names and addresses of the witnesses who will testify; and
- (3) The reasons why such evidence cannot be presented in Arlington, VA.

(b) In ruling on the motion, the presiding officer shall consider the convenience and necessity of the parties and the relevancy of the evidence to be offered.

[59 FR 31538, June 20, 1994, as amended at 63 FR 66050, Dec. 1, 1998]

#### **§ 953.10 Presiding officers.**

The presiding officer at any hearing shall be an Administrative Law Judge qualified in accordance with law (5 U.S.C. 3105) and assigned by the Judicial Officer (39 U.S.C. 204), or the Judicial Officer, may at his discretion, elect to preside at the reception of evidence. The Judicial Officer shall assign cases to Administrative Law Judges upon rotation if practicable.

#### **§ 953.11 Proposed findings of fact and conclusions of law.**

Proposed findings of fact and conclusions of law shall be submitted orally or in writing at the conclusion of the hearing, or otherwise, as ordered by the presiding officer.

#### **§ 953.12 Initial decision.**

Unless given orally at the conclusion of the hearing, the Administrative Law Judge shall render an initial decision as expeditiously as practicable after the conclusion of the hearing and the receipt of the proposed findings and conclusions, if any. The initial decision shall become the decision of the Postal Service if an appeal is not perfected. When the Judicial Officer presides at the hearing, his powers shall include those of an Administrative Law Judge, but the Judicial Officer may render either an initial or final decision. Exceptions may be filed to an initial decision rendered by the Judicial Officer in accordance with § 953.13.

#### **§ 953.13 Appeal from initial decision.**

Either party may file exceptions in a brief on appeal to the Judicial Officer within 5 days after receipt of the initial decision unless additional time is granted. A reply brief may be filed within 5 days after the receipt of the appeal brief by the opposing party.

#### **§ 953.14 Final Agency decision.**

The Judicial Officer shall render a final Agency decision. The decision shall be served upon the parties and the postal official having custody of any mail detained pursuant to the determination or ruling.